

REMARKS

Applicant has filed the present Response in reply to the Official Action dated September 27, 2006 and Applicant believes that the Response are fully responsive to the Official Action for at least the reasons set forth herein.

At the onset, Applicant would like to thank the Examiner for taking the time to speak with Applicant's representative in a telephonic interview. During the interview, the 112 rejections and the 102 rejections were discussed.

Applicant's representative pointed to support throughout the specification for the initial characteristic measurement device and the table reading device. The Examiner indicated that the specification supported the claim limitation and indicated that the claim did particularly point out and distinctly claim the subject matter. Support for the claimed features can be found at pages 5-44 of the instant specification. For example, Applicant directs the Examiner's attention to pages 12-16 and Figure 6. The above-identified sections of the specification are only presented by way of an example and are not intended to be an exhaustive list of all of the examples. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection pursuant to 35 U.S.C. § 112, second paragraph.

Applicant's representative also presented arguments distinguishing Panescu and Howell from the claimed invention. The arguments focused on the difference between detecting a code and measuring a value as Panescu fails to teach measuring a value as claimed.

Additionally, the arguments were directed to setting a resistance value for each temperature level, respectively, for controlling the driving circuit on the basis of the

measurement as Howell and Panescu fail to teach setting a resistance value in advance based upon a measured value. Applicant's representative identified Figures 9 and 10 as illustrative examples of the settling limitations. Moreover, the arguments were directed towards the fact the neither reference teaches measuring the ambient temperature surrounding the heater.

To summarize Applicant's arguments and reasoning, Panescu does not teach **measuring** the initial characteristics of the heater. Panescu teaches detecting the characteristics of a device, which are stored in the device. The signal processor identifies the characteristic by a predetermined code. Each identification code uniquely identifies a particular structure in terms of the physical properties of the electrode, or in terms of the functionality of the electrode. The identification element is attached in association with each structure within the family to retain the identification code.

The reference states that each structure carries an identification component, i.e., XYZ. The identification component carries the assigned identification code. "In the illustrated embodiment, the coded component is located with the handle of the probe that carries the structure." See Col. 26, lines 21-25. The coded component is electrically coupled to an **external interpreter** when the probe is plugged into the control unit. The interpreter inputs the code XYZ that the coded component contains. The interpreter displays an understandable alphanumeric format for the physical, mechanical and functional characteristics of the structure that the code XYZ signifies. Col. 26, lines 33-44.

Clearly, the reference teaches that the control unit detects a coded component in the electrodes, decodes the unique code and interprets the code. The reference does not

teach at any time measuring the characteristics and determining the type of heater based upon the measured characteristics.

Since the reference fails to teach the aforementioned feature, the claimed invention has an advantage over the prior art. The claimed invention measures the initial characteristics of the heat each time that the heater is connected. These initial characteristics can be time and temperature dependent, i.e., resistance, and, therefore, can change. The measured initial characteristic is the true value for the characteristic. The unique code only represents, at best, characteristics for the electrode that corresponded to the electrode at the time of manufacturing or encoding. The current characteristics might be significantly different from the initial characteristics during the code assignment, causing the interpretation of the code to be incorrect.

Additionally, Panescu fails to teach a heating setting device for **setting a resistance value for each temperature level**, respectively, for controlling the driving circuit on the basis of the measurement or judgment.

In the claimed invention, the heating setting device assigns a resistance value to each temperature level, i.e., levels 1-5. When one of the levels is selected, the heating setting device sends the corresponding preset resistance value to the driving circuit.

Panescu does not teach this initial assignment for each temperature level. Additionally, the reference does not even suggest that the heater or device has more than one temperature level. Panescu only teaches that the control unit can also include functional algorithms coupled to the processor that sets operating parameters based upon the code. Therefore, the reference is missing both the claimed element and function, i.e.,

heating setting device and setting the resistance value for each temperature level, as recited in Claims 1, 7, 11, 15 and 17 (similarly recited in Claim 18).

Howell fails to teach a heating setting device for **setting a resistance value for each temperature level**, respectively, for controlling the driving circuit on the basis of the measurement, as recited in Claims 1, 7, 11, 15 and 17. Additionally, Howell fails to teach assigning for each temperature level, respectively, a resistance value for driving the control section for the heater on the basis of judgment results from the measuring, as recited in Claim 18.

Additionally, neither reference teaches or suggests a memory device in which a plurality of **resistance value tables corresponding to changes in the heating temperature** of the heater are stored respectively in association with a plurality of treatment tools; a table reading device for **selectively reading out resistance value data from the plurality of resistance value tables stored in the memory device**, on the basis of the measurement, as recited in Claims 2 and 15.

Additionally, with respect to Claims 3 and 17, neither reference teaches nor suggests a temperature measuring device for measuring the ambient temperature in a vicinity of the heating treatment apparatus **nearly simultaneously to** the resistance value detecting device detecting the resistance value of the heater, a temperature correcting device for calculating a **required resistance value** for each temperature level on the basis of the **detection results detected by the resistance value detecting device and the measurement results measured by the temperature measuring device**. Additionally, neither reference teaches nor suggests a heating setting device for setting a control resistance value for a specific temperature level, said control resistance value is selected

from said required resistance value for each temperature level calculated by the temperature correcting device, as recited.

In an embodiment, the specification describes that the temperature sensing section 100 measures the temperature in the vicinity of the main unit. Furthermore, the temperature sensing section measures the temperature at the time that the resistance value detecting section 35 detects the resistance values. See page 39. In contrast, the reference teaches that the control unit detects a coded component in the electrodes, decodes the unique code and interprets the code. The references neither measures the temperature in the vicinity of the device nor measures the resistance value of the heater at the same time as the measurement of the temperature.


The Examiner agreed with Applicant's representative that Panescu and Howell do not teach all of the limitations of the claims.

Claims 2-6, 8-10, 12-14, and 16, which depend directly or indirectly from the independent Claims 1, 7, 11, 15, 17, and 18, incorporate all the limitations of the corresponding independent claim and are, therefore, patentably distinct over the references for at least those reasons provided for claims 1, 7, 11, 15, 17, and 18. Applicant also notes that Claims 2, 3, 15 and 17 are separately patentable over the cited references based at least upon the above-identified analysis. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections of Claims 1-18 pursuant to 35 U.S.C. § 102.

In conclusion, the Applicant believes that the above-identified application is in condition for allowance and henceforth respectfully solicits the Examiner to allow the application. If the Examiner believes a telephone conference might expedite the

allowance of this application, the Applicant respectfully requests that the Examiner call the undersigned, Applicant's attorney, at the following telephone number: (516) 742-4343.

Respectfully submitted,


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